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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,595	05/19/2000	Michael Bundy	T30418US	7510

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EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 10/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/574,595

Applicant(s)

BUNDY, MICHAEL

Examiner

Narayanswamy Subramanian

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1. This is in response to communication dated July 7, 2003. Election of invention I pertaining to claims 1-8 and cancellation of claims 9-16 by the Applicant is acknowledged by the Examiner. In the last communication from the Applicant, the application number and Examiner's name were typed incorrectly. Applicant is respectfully advised to check such details before mailing to avoid delay in matching of the mailed papers with their respective application files. For Applicant's information, the Information Disclosure Statements (Paper Numbers 2, 3 and 4) are all identical even though Examiner has acknowledged each of them separately. Claims 1-8 have been examined. The rejections are stated below.

#### ***Drawings***

2. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (US Patent 5,864,827) in view of Patterson Jr. et al (US Patent 5,915,245).

With respect to claim 1, Wilson teaches a method implemented in a broker-dealer computer system, the system being engaged in automated processing of orders for securities

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including sending messages to markets and receiving from markets responses to messages, the method comprising the steps of recording for messages sent to markets the identity of the market to which each message is sent, the messages comprising orders and cancellations of orders and displaying the identity of the market (See Wilson Figure 3, Column 5 lines 19-25, Column 6 lines 22-30 and lines 44-55).

Wilson does not explicitly teach the steps of recording the time when each message is sent, recording for responses received from recipient of the first message the time when each response is received, wherein each response corresponds to a particular message, calculating for at least one recipient a latency dependent upon at least one recorded time when at least one message is sent to the recipient and at least one recorded time when a corresponding response is received from the recipient and displaying the latency for the recipient.

Patterson teaches the steps of recording the time when each message is sent, recording for responses received from recipient of the first message the time when each response is received, wherein each response corresponds to a particular message (See Patterson Figures 1, 13, claims 1 and 8-12, Column 6 line 56 – Column 7 line 7, Column 9 line 2 – Column 10 line 9, Column 11 lines 7-16 and Column 12 lines 1-8). Official notice is taken that the steps of calculating for at least one recipient a latency dependent upon at least one recorded time when at least one message is sent to the recipient and at least one recorded time when a corresponding response is received from the recipient and displaying the latency for the recipient is old and well known in the art. These steps provide the user with the information about the status of the message and enable the user to route the message to the recipient who is best able to handle the message in a timely manner.

It would have been obvious to one with ordinary skill in the art at the time of the current invention to include the steps of calculating a latency for at least one recipient, displaying the latency and include the teaching of Patterson to the invention of Wilson. The combination of the disclosures taken as a whole suggests users would have benefited from having information about each market to enable them to route their order to the market that is best able to handle the order in a timely manner.

With reference to claims 2-8, Wilson teaches a method of claim 1 as discussed above.

Wilson does not explicitly teach the steps wherein the latency for a market further comprises latency for a port; a latency comprising an instant latency calculated dependent upon one recorded time when one message is sent to a market and one recorded time when a corresponding response is received from the market; an average latency dependent upon at least one recorded time when at least one message is sent to the market and at least one recorded time when a corresponding response is received from the market, wherein all the recorded times used in calculating the latency are recorded during a defined period of time; an average latency based upon a defined maximum number of recorded times; an average latency dependent based on latest recorded time and a defined maximum recorded times; further comprising counting the number of messages sent to at least one market during a period of time, including storing in computer memory the number of messages sent to the market during the period of time, counting the number of responses received from the market during the period of time, including storing in computer memory the number of responses received from the market during the period of time and displaying, in addition to the latency for the market, the number of messages sent to the market and the number of responses received from the market during the period of time,

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counting the number of messages sent to a market through a port during a period of time, including storing in computer memory the number of messages sent to the market through the port during the period of time; and further comprising counting the number of responses received from the market through the port during the period of time, including storing in computer memory the number of responses received from the market through the port during the period of time and displaying, in addition to the latency for the market, the number of messages sent to the market through the port and the number of responses received from the market through the port during the period of time.

Patterson teaches the steps wherein the latency for a market further comprises latency for a port (See Patterson Figure 13, Column 9 lines 24-29, Column 19 lines 2-20 and Column 16 lines 3-5; echo messages provides the times for the ports and latency is implied from the official notice in the discussion of claim 1); a latency comprising an instant latency calculated dependent upon one recorded time when one message is sent to a market and one recorded time when a corresponding response is received from the market (See Patterson Figure 13, Column 9 lines 24-29, Column 19 lines 2-20 and Column 16 lines 3-5; latency is implied from the official notice in the discussion of claim 1); an average latency dependent upon at least one recorded time when at least one message is sent to the market and at least one recorded time when a corresponding response is received from the market, wherein all the recorded times used in calculating the latency are recorded during a defined period of time (See Patterson Figure 13, Column 9 lines 24-29, Column 11 lines 8-24 and lines 47-57; latency is implied from the official notice in the discussion of claim 1); further comprising counting the number of messages sent to at least one market during a period of time, including storing in computer memory the number of messages

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sent to the market during the period of time, counting the number of responses received from the market during the period of time, including storing in computer memory the number of responses received from the market during the period of time and displaying, in addition to the latency for the market, the number of messages sent to the market and the number of responses received from the market during the period of time, counting the number of messages sent to a market through a port during a period of time, including storing in computer memory the number of messages sent to the market through the port during the period of time (See Patterson Figure 13, Column 9 lines 24-29, Column 19 lines 2-20 and Column 16 lines 3-5, claims 1 and 8-12; audit trail implies recording and storing of the messages and latency is implied from the official notice in the discussion of claim 1); and further comprising counting the number of responses received from the market through the port during the period of time, including storing in computer memory the number of responses received from the market through the port during the period of time and displaying, in addition to the latency for the market, the number of messages sent to the market through the port and the number of responses received from the market through the port during the period of time (See Patterson Figure 13, Column 9 lines 24-29, Column 19 lines 2-20 and Column 16 lines 3-5, claims 1 and 8-12; audit trail implies recording and storing of the messages and latency is implied from the official notice in the discussion of claim 1). Official notice is taken that the steps of counting the number of messages and computing an average latency dependent based on latest recorded time and a defined maximum recorded times are old and well known in the art. These steps provide the user with the information about the status of messages to a recipient on an average and enable the user to route the message to the recipient who is best able to handle the message in a timely manner during a certain time period.

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It would have been obvious to one with ordinary skill in the art at the time of the current invention to include the steps of counting the number of messages and computing an average latency dependent based on latest recorded time and a defined maximum recorded times and include the teaching of Patterson to the invention of Wilson. The combination of the disclosures taken as a whole suggests users would have benefited from having information about each market to enable them ascertain the status of messages to a recipient on an average and to route their order to the market that is best able to handle the order in a timely manner during a certain time period.

### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (703) 305-4878. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (703) 308-1065. The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

N. Subramanian  
September 11, 2003



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Richard Weisberger  
Primary Examiner